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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,514	04/16/2004	Keith W. Sterner	FLE-PTO13.1	1949
3624	7590	03/13/2006	EXAMINER	
VOLPE AND KOENIG, P.C.			TYLER, STEPHANIE E	
UNITED PLAZA, SUITE 1600				
30 SOUTH 17TH STREET			ART UNIT	PAPER NUMBER
PHILADELPHIA, PA 19103			3754	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/826,514	STERNER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephanie E. Tyler	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 10 February 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4 and 6-10 is/are rejected.  
 7) Claim(s) 5 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 7/19/2004.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**Detailed Action**

***Election/Restrictions***

1. Applicant's election without traverse of Species I, figures 1-17 in the reply filed on January 17, 2006 is acknowledged.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Cunningham (2,858,051).

Cunningham discloses in figures 1- 3 a bulk bag discharger with at least one flow promotion device [FPD] having a center plate (figure 2, adjacent plates) pivotally connected to a frame (15) of the bulk bag discharger; extension plates (10) pivotably attached to each end of the center plate, each extension plate (10) including a lever arm (structure configuration mounted on extension plate).

Further the apparatus disclose having a connecting element connected between the lever arm (structure configuration mounted on extension plate) on each of the extension plates and the frame (15).

Moreover the apparatus disclose having an actuator (16) connected between the center plate (figure 2, adjacent plates) and the frame (15), whereby upon activation of the actuator (16), the center plate is moved upwardly, and the extension plates (10) are pivoted upwardly and inwardly by the connecting elements in order to press against the bag from at least three different directions.

Regarding claim 2 note in figure 2 that a second FPD is located on the opposing side of the frame from the FPD, such that upon actuation of the actuators (16), the bag (C) is pressed on from six directions to promote flow.

Regarding claim 3 note in figure 1 wherein the connecting element is a link that includes first and second ends that can be extended apart from one another against a resilient biasing force.

Regarding claim 4 note in figure 1 wherein a first end of the link is connected to a hollow link body (16), and a second end of the link comprises a slider that is moveable within the body (16) and a rod (16a) end that is connected to the slider and extends out of the hollow link body.

Regarding claim 6 note in figures 1 and 2 wherein each extension plate (10) includes two major surfaces for contacting the bag (C).

Regarding claim 7 note in figure 1 wherein the major surfaces are set at an angle relative to one another to form a protruding area that is directed toward a bulk bag (C) receiving space of the bulk bag discharger.

Regarding claim 8 note in figures 1 and 2 wherein the center plate (figure 2, adjacent plates) is connected to the frame (15) along a pivot axis, and the extension

plates are indirectly connected to the center plate by hinges (connection of 12,14) that are set at an angle of about 30° to about 90° to the pivot axis.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham (2,858,051) in view of Gottschald (3,037,787).

Cunningham (2,858,051) discloses everything regarding the apparatus of the bulk bag discharger. However Cunningham lacks a first and second ball joint connection to the rod end and link of the extendible connecting element.

Gottschald (3,037,787) reference teaches a well-known conventional concept in the art, that a first ball joint (2) and the second ball joint (6) are connected to the rod end and (4) at the second end of the link (1) of an extendible connecting element for the purpose of providing a wider range of motion between the components which are interconnected by the extendible connecting element.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have provided each end of the extendible connecting element of Cunningham's device with the first and second ball joints as taught by

Gottschald in order to permit a wider range of motion between the lever arm and the frame.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie E. Tyler whose telephone number is 571-272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 517-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SET



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